

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

GARY DUANE ZIEHL,

Plaintiff,

v.

No. CV 14-0432 KG/LAM

**F.N.U. VELARDE, and
M. GONZALEZ,**

Defendants.

ORDER TO SHOW CAUSE

THIS MATTER is before the Court *sua sponte*. On August 7, 2015, pursuant to the Court's order setting deadlines [Doc. 28], Defendants filed a *Martinez* report [Doc. 29] and a motion for summary judgment [Doc. 31]. Plaintiff's response to the motion for summary judgment was due August 24, 2015 (*see Doc. 28*), but nothing has been filed. "The failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion." D.N.M.LR-Civ. 7.1(b). Moreover, Plaintiff's failure to comply with the Court's order setting deadlines indicates a lack of interest in litigating his claims which may subject him to dismissal of this action for lack of prosecution. *See Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962) ("The authority of a court to dismiss *sua sponte* for lack of prosecution has generally been considered an 'inherent power,' governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.") (footnote and citations omitted), *Olsen v. Mapes*, 333 F.3d 1199, 1204, n.3 (10th Cir. 2003) (same), and *Martinez v. Internal Revenue Service*, 744 F.2d 71, 73 (10th Cir. 1984) ("Courts have the inherent power to impose a variety of

sanctions on both litigants and attorneys in order to regulate their docket, promote judicial efficiency, and deter frivolous filings.”) (citations omitted). Therefore, the Court will require Plaintiff to show cause why this case should not be dismissed.

IT IS THEREFORE ORDERED THAT no later than Tuesday, September 29, 2015, Plaintiff shall either file with the Court a response to Defendants' motion for summary judgment, or file with the Court a response to this Order showing cause why this case should not be dismissed. Whichever he chooses to file, Plaintiff must serve a copy on Defendants. ***Plaintiff is also hereby notified that failure to respond to this Order may result in dismissal of this case without prejudice and without further notice.***

IT IS SO ORDERED.



LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE